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sion. Further assets of the bank were then discovered, and the stockholders claimed to be subrogated to the depositors' right to share these assets with the general creditors. *Held*, the stockholders should be so subrogated. *Arthur v. Peoples Bank of Union* (S. C.), 83 S. E. 778. See NOTES, p. 373.

CRIMINAL LAW—FORCIBLE BREAKING.—The defendant was indicted for forcibly breaking and entering a chicken coop, the door of which was partly open and held in position by bricks and a stick. *Held*, to push the door further open was a sufficient breaking. *Goins v. State* (Ohio), 107 N. E. 335.

An interesting question, long disturbing the courts, is whether there is a sufficient common law breaking where a window or door partially open is pushed further open to make an entry. By the common law rule it was deemed a man's folly and negligence if he left his doors and windows open and one entering under such circumstances was not guilty of burglary. 4 BLACKSTONE, COMM., 15 Ed. 226. Extending this doctrine, the English cases hold that where a man leaves his doors or windows partially open to open them further to permit ingress is not sufficient breaking to support an indictment for burglary. *Rex v. Smith*, 1 Moody C. C. 178. See *Rex v. Hyams*, 7 Car. & P. 441. This rule finds favor with the Massachusetts authorities. *Commonwealth v. Steward* (Mass.), 7 Dane Abr. 136; *Commonwealth v. Hages*, Id.; *Commonwealth v. Strupney*, 105 Mass. 588, 7 Am. Rep. 556. And this was deemed established law for a number of years in this country. BISHOP, STATUTORY CRIMES, 2 Ed., § 312. Contributory negligence, while available as a defense in an action of tort, should be no defense to a prosecution for burglary as the latter is a crime against the state. There is a tendency to depart from the old construction and to hold that pushing a door or window further open is a forcible breaking. *State v. Lapoint* (Vt.), 88 Atl. 523; *State v. Sorenson* (Ia.), 138 N. W. 411; *People v. White*, 153 Mich. 617, 117 N. W. 161, 17 L. R. A. (N. S.) 1102, 15 Ann. Cas. 927. *Contra*, *Rose v. Commonwealth*, 19 Ky. Law Rep. 272, 40 S. W. 245. It is settled that to open a door or window completely shut, but not fastened in any way, is breaking. *Rex v. Hyams*, *supra*; *State v. Reid*, 20 Iowa 413; *Sparks v. State*, 34 Tex. Cr. Rep. 86, 29 S. W. 264. It is a useless refinement to hold that opening a closed door which is not fastened in any manner is a breaking, while to open further one that is partially open is not a breaking, as the force used in the two cases of either class is of the same character and degree, differing only in the continuance of the effort. *State v. Lapoint*, *supra*; *Claiborne v. State*, 113 Tenn. 261, 83 S. W. 352, 106 Am. St. Rep. 833, 68 L. R. A. 859.

DEATH BY WRONGFUL ACT—NECESSARY ALLEGATIONS AS TO BENEFICIARIES UNDER STATUTES.—Deceased was killed through defendant's negligence, and his administrator sued under the Missouri statute for damages for his wrongful death. The petition alleged that the deceased, at the time of his death, "was an unmarried adult person without minor child or children, natural born or adopted." There was no allegation that